

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
NEW YORK

UNITED STATES OF AMERICA,

v.

5:05-CR-5

MOTION FOR NEW TRIAL
PURSUANT TO FRCrP 33

KELVIN MINOTT,
Defendant

The defendant, KELVIN MINOTT, by his undersigned attorney, moves this Court to grant him a new trial for the following reasons:

1. The Court erred in denying defendant's motion for an acquittal made at the conclusion of the Government's evidence.
2. The verdict is contrary to the weight of the evidence.
3. The verdict is not supported by substantial evidence.
4. The Court erred in charging the jury that Count 1 as it pertained to the defendant, KELVIN MINOTT, when it stated: "The key question, therefore, is whether the defendant joined the conspiracy with an awareness of *at least some* of the basic aims and purposes of the unlawful agreement." (Emphasis supplied). This seems to be at odds with the requirement that the Government must prove each and every element of the crime charged beyond a reasonable doubt.

**5. The Court erred in refusing to charge the defense submitted charge
regarding the buyer-seller defense, and in substituting it's own charge on
that defense.**

Dated: November 3, 2006

**JAMES K. WEEKS
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